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Passive Activity and At-Risk Rules

For use in preparing
1990 Returns

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roduction

publication discusses two sets of rules that limit the losses that you can deduct on your eturn from any trade, business, or income-ucing activity. The first part of the publication ains the passive activity rules. The second discusses the at-risk rules. However, when igure your allowable losses from any activity, must apply the at-risk rules before the passive ity rules.

publications and forms. If you need infor-on on a subject not covered in this cation, you may check our other free cations. To order publications and forms, call oll-free telephone number, 0–TAX–FORM (829–3676), or write the Inter-Revenue Service (IRS) Forms Distribution er for your area as shown in the income tax ages.

assive Activity mits

re you use the passive activity rules, ***defer-your amount at risk*** in the activity. The al-ules are explained in the second part of this cation. After you figure your amount at risk, the rules in this part to find your passive ity losses and the amount you can deduct. general, you are allowed to deduct passive ity losses only from passive activity income. excess is carried forward to the following year ars until used, or until you dispose of your interest in the activity in a fully taxable action. See *Dispositions*, later.

u can take ***passive activity credits*** only tax on net passive income. Passive activity ts include the general business credit and special business credits, such as the orphan credit and the credit for fuel produced from a onventional source. Credits in excess of the n income from passive activities are also ed forward.

allowed passive activity credits, unlike owed passive activity losses, are not deducti-hen you dispose of your entire interest in an ty. However, you can elect to increase the of your interest in the activity by the amount e original basis reduction for the credit to the t that the credit was not allowed because of assive activity limits. You cannot elect to t the basis for a partial disposition of your st in a passive activity. See Form 8582-CR, *ive Activity Credit Limitations*, for more infor-n.

rmining if these rules apply to you. The ve activity rules apply to:

ndividuals,

Estates,

Trusts (other than grantor trusts),

Personal service corporations, and

Closely held corporations.

gh though the limits do not apply to grantor , partnerships, and S corporations directly, do apply to the owners of such entities.

onal service corporation. For the passive y rules, a corporation is a personal service ration if it meets all of the following ements.

is a corporation (other than an S orporation).

s principal activity during the "testing period" performing personal services. The testing eriod for any tax year is the previous tax ar. If the corporation has just been formed, e testing period begins on the first day of its x year and ends on the earlier of:

a) The last day of its tax year, or

b) The last day of the calendar year in which its tax year begins.

3) **The services in (2) must be substantially performed by employee-owners.** This is met if more than 20% of the corporation's compensation cost for its activities of perform ing personal services during the for services performed by employee-owners.

4) **Its employee-owners own more than 10% of the fair market value of its outstanding stock on the last day of the testing period.**

Personal services. Personal services are those in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, and consulting.

Employee-owners. A person is an employee-owner of a personal service corporation if both of the following apply.

1) He or she is an employee, or performs personal services for or on behalf of the corporation as an independent contractor, during any day of the testing period, and

2) He or she owns any stock in the corporation at any time during the testing period.

Closely held corporation. A corporation is closely held if all of the following apply.

1) It is a corporation (other than an S corporation),

2) It is not a personal service corporation, defined earlier, and

3) More than 50% of the value of its outstanding stock is directly or indirectly owned by five or fewer individuals. "Individual" includes certain trusts and private foundations.

Identifying Your Activities

In order to determine your passive losses, you must first identify your activities. Generally, each undertaking you own is a separate activity. You can own an undertaking either directly or through a partnership, S corporation, estate, or trust, but not through a C corporation.

An undertaking includes all the business and rental operations you conduct at the same location, either directly or through the same partnership, S corporation, trust, or estate. Operations are conducted at the same location if they are conducted in the same physical structure or within close proximity of one another. Operations not actually conducted at the same location are treated as conducted at the location with which they are most closely associated under all the facts and circumstances. For example, if you send employees from a central office to perform services at customers' homes, your operations are treated as conducted at the central office.

If you conduct all your business and rental operations at the same location directly or through one entity, you have only one undertaking and one activity.

Example. Erica is the sole owner of a department store and a restaurant. She conducts both businesses in the same building. Both businesses are income-producing operations. For purposes of the passive activity loss rules, the department store and the restaurant are treated as a single undertaking.

Rental undertakings. If you own an undertaking that conducts both rental and nonrental operations, you generally must treat the two types of operations as separate undertakings. However, do not treat the rental and nonrental operations as separate undertakings if either of the following applies:

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1) The rental operations, if treated as a separate activity, would not be a rental activity (see *Rental Activities*, later), or

2) One type of operation predominates over the other to such an extent that it produces more than 80% of the basic undertaking's gross income.

Activity Rules

Once you identify your undertakings, treat each nonrental undertaking as a separate activity unless one of the following rules ***requires or permits you*** to combine undertakings into a larger activity.

Trade or business undertakings. You must generally combine trade or business undertakings into a larger activity if the undertakings are similar and controlled by the same interests. Undertakings are similar if there are predominant operations in each undertaking, and each undertaking's predominant operations are in the same line of business. There are predominant operations in an undertaking if more than 50% of the undertaking's gross income is attributable to operations in a single line of business. The lines of business appear in Revenue Procedure 89-38, 1989-1 CB 920. Undertakings are also similar if they are vertically integrated.

Integrated businesses. Two or more trade or business activities are treated as a single activity if their operations constitute a single integrated business, and the activities are controlled by the same interests. Whether trade or business activities constitute a single integrated business depends on all the facts and circumstances. The most important factors to consider are whether:

1) The operations are conducted at the same location,
2) Other persons conduct similar operations at one location,
3) The operations are treated as a unit in the accounting records showing operation results,
4) The operations are owned by the same person,
5) The operations involve products or services that are commonly provided together,
6) The operations serve the same customers,
7) The operations are coordinated with or rely on each other,
8) The operations depend on each other for economic success, and
9) The operations are conducted under the same trade name.

Professional service undertakings. You generally must combine your interests in professional service undertakings into a single activity if the undertakings provide services in the same field or earn more than 20% of their gross income from the same customers, or if the undertakings are controlled by the same interests. Professional service undertakings provide services in the fields of health, law, engineering, architecture, accounting, actuarial science, the performing arts, or consulting.

Control by the same interests. Undertakings are presumed to be controlled by the same interests if five or fewer persons own more than 50% of each undertaking.

Election to treat undertakings as separate activities. You can elect to treat ***nonrental undertakings*** acquired in 1990 as separate activities for purposes other than to determine participation in activities. To make this election, attach a statement to your tax return that:

1) Gives your name, address, and taxpayer identification number,
2) States that the election is being made under section 1.469-4T(o) of the regulations,
3) Identifies the undertaking that you are treating as a separate activity, and
4) Identifies the rest of the activity from which you are separating the undertaking.

Note. If you want to treat as separate activities any undertakings you acquired in 1990 that these rules would combine into a larger activity, attach this statement to your 1990 tax return (or an amended return), or you will not be able to treat the undertakings as separate activities for 1990 or any later years.

If undertakings you owned in 1989 were combined into a larger activity on your 1989 tax return, you cannot treat those undertakings as separate activities in 1990 or any later year.

Example. Ted Lawrence is a calendar year taxpayer. During 1990, he acquired direct ownership of 10 grocery stores. Each grocery store is a separate undertaking. Using the rules discussed under *Trade or business undertakings*, the grocery stores would be treated as one activity. However, he can elect to treat each grocery store as a separate activity. He also can elect to combine the grocery stores in any manner he wishes and treat each combination as a separate activity. To do this, he must make the election as described previously.

Rental real estate undertakings. A rental real estate undertaking is a rental undertaking in which at least 85% of the unadjusted basis of the property made available for use by customers is real property. Each rental real estate undertaking generally is a separate activity. However, you may combine separate rental real estate undertakings into the same activity. Under certain circumstances, you may also divide a single rental real estate undertaking into separate undertakings. You can then treat each separate undertaking as a separate activity or combine the separate undertakings with other undertakings to identify your rental real estate activities. You generally must attach a statement, discussed earlier under *Election to treat undertakings as separate activities*, to your tax return if you combine separate rental real estate undertakings or portions of undertakings into the same activity, or if you divide a single rental real estate undertaking into separate undertakings.

Note. If you want to divide a single rental real estate undertaking you acquired in 1990 into separate undertakings, attach this statement to your 1990 return or amended return. If you do not attach the statement, you will not be able to treat the undertakings as separate undertakings for 1990 or any later year. See Temporary Regulations section 1.469-4T(k).

If you divided a single rental real estate undertaking you owned in 1989 into separate undertakings on your 1989 tax return, you must treat the undertakings as separate undertakings in 1990 or any later year.

Furthermore, if you combined rental real estate undertakings you owned in 1989 into a larger activity on your 1989 tax return, the larger activity cannot be divided into separate activities in 1990 and later years.

Other rental undertakings. You may not combine or divide your rental undertakings other than rental real estate undertakings. You must treat each rental undertaking that is not a rental real estate undertaking as a separate activity.

Publicly Traded Partnerships (PTPs). You may not combine operations held through a PTP with any other operations you own, including operations you hold through another PTP. See *Publicly Traded Partnerships (PTPs)* in the Instructions for Form 8582, *Passive Activity Loss Limitations*.

Passive Activities

There are two kinds of passive activities—trade or business activities in which you do not materially participate (defined later) during the tax year, and rental activities (discussed later) regardless of your participation.

Trade or business activities. An activity is a trade or business activity if the activity:

1) Is not a rental activity, and
2) Involves the conduct of business and rental operations that are not incidental to an activity of holding property for investment. "Business and rental operations" are endeavors you engage in for profit or the production of income that satisfy one or more of the following conditions:
   a) They involve the conduct of a trade or business (that is, deductions would be allowable under section 162 if other limitations, such as the passive loss rules, did not apply) or are conducted in anticipation of the endeavors becoming a trade or business.
   b) They involve making tangible property available for use by customers.
   c) Research or experimental expenditures are deductible under section 174 if you choose to deduct rather than capitalize them.

You generally report trade or business activities on Schedule C, Schedule F, and Part II or III of Schedule E.

Activities That Are Not Passive Activities

The following ***are not*** passive activities.

1) Trade or business activities in which you materially participated for the tax year.
2) A working interest in an oil or gas well. Your working interest must be held directly or through an entity that does not limit your liability (such as a general partner interest in a partnership). If this is the case, it does not matter whether you materially participated in the activity for the tax year.
   However, if your liability was limited for part of the year (for example, you converted your general partner interest to a limited partner interest during the year), some of your income and losses from the working interest may be treated as passive activity gross income and passive activity deductions. See Temporary Regulations section 1.469-1T(e)(4)(ii).
3) The rental of a dwelling unit you used as a residence if section 280A(c)(5) applies. This section applies if you rented out a dwelling, which you also used as your home during the year, for a period more than the ***greater of*** 14 days or 10% of the number of days during the year that the home was rented at a fair rental.
4) An activity of trading personal property for the account of those who own interests in the activity. See Temporary Regulations section 1.469-1T(e)(6).
5) Low-income housing activities. Transitional relief is provided for investors in qualified low-income housing activities. Losses from certain investments in low-income housing after 1983 are not treated as losses from a passive activity for a period of up to 7 years from the date of the original investment.

Income and losses from these activities should not be entered on Form 8582, but on the forms or schedules you would normally use. However, these activities may be subject to limits other than the passive loss rules.

Material Participation

A trade or business activity is not a passive activity if you materially participate in the activity. You materially participate in a trade or business activity for a tax year if you satisfy one of the following tests.

1) You participated in the activity for more than 500 hours.
2) Your participation is substantially all of the participation in the activity of all individuals for the tax year, including the participation of individuals who did not own any interest in the activity.
3) You participated in the activity for more than 100 hours during the tax year, and you participated at least as much as any other individual (including individuals who did not own any interest in the activity) for the year.
4) The activity is a significant participation activity, and you participated in all significant participation activities for more than 500 hours. A significant participation activity is any trade or business activity in which you participated for more than 100 hours during the year and in which you did not materially participate under any of the material participation tests, other than this test. See *Significant Participation Passive Activities*, later.
5) You materially participated in the activity for any 5 (whether or not consecutive) of the 10 preceding tax years. When determining whether you materially participated in tax years beginning before 1987 (other than a tax year of a partnership, S corporation, estate, or trust ending after 1986), you materially participated only if you participated for more than 500 hours during the tax year.
6) The activity is a personal service activity in which you materially participated for any 3 (whether or nor consecutive) preceding tax years. To determine material participation in tax years beginning before 1987 (other than a tax year of a partnership, S corporation, estate, or trust ending after 1986), you materially participated only if you participated for more than 500 hours during the tax year. Personal services are defined earlier.
7) Based on all the facts and circumstances, you participated in the activity on a regular, continuous, and substantial basis.

   You did not materially participate in the activity under Test (7) if you participated in the activity for 100 hours or less during the year. Your participation in managing the activity does not count in determining whether you materially participated under this test if:

   a) Any person other than you received compensation for managing the activity, or
   b) Any individual spent more hours during the tax year managing the activity than you did (regardless of whether the individual was compensated for the management services).

Spouse's participation. If you are married for the tax year, your participation in an activity includes your spouse's participation. This applies even if your spouse did not own any interest in the activity, and you and your spouse do not file a joint return for the year.

Proof of participation. You can use any reasonable method to prove your participation in an activity for the year. You do not have to maintain contemporaneous daily time reports, logs, or similar documents if you can establish your participation some other way. For example, you can show the services you performed and the approximate number of hours spent by using an appointment book, calendar, or narrative summary.

Limited partners. If you owned an activity as a limited partner, you generally did not materially participate in the activity. However, you did materially participate in the activity if you materially participated for the tax year under Test (1), (5), or (6).

You are not treated as a limited partner, however, if you were a general partner in the partnership at all times during the partnership's tax year ending with or within your tax year (or, ***if shorter,*** during that part of the partnership's tax year in which you directly or indirectly owned your limited partner interest).

Retired or disabled farmer and surviving spouse of farmer. If you are a retired or disabled farmer, you are treated as materially participating in a farming activity if you materially participated 5 of the 8 years before your retirement or disability. Similarly, if you are a surviving spouse of a farmer, you are treated as materially participating in a farming activity if the real property used in the activity meets the estate tax rules for special valuation of farm property passed from a qualifying decedent, and you actively manage the farm.

Corporations. A closely held corporation or a personal service corporation is treated as materially participating in an activity only if one or more shareholders, holding more than 50% by value of the outstanding stock of the corporation, materially participate in the activity.

A closely held corporation can also satisfy the material participation standard by meeting the first two ***qualifying business requirements*** for exclusion from the at-risk limits, discussed later under *Special exception for qualified C corporations.*

Losses from passive activities of closely held C corporations. A closely held C corporation can also offset ***net active income*** with its passive activity loss. It can offset the tax attributable to net active income with its passive activity credits. However, a closely held C corporation cannot offset portfolio income (defined later under *Nonpassive Income*) with its passive activity loss.

Net active income is the corporation's taxable income figured without any income or loss from a passive activity or any portfolio income or loss.

Recharacterization of Passive Income

Passive activity gross income does not include net income from certain types of passive activities or property used in certain types of passive activities described in the following paragraphs. If, during the tax year, you were in a passive activity or used property in a passive activity (either directly or through a partnership or an S corporation), combine the income and losses from the activity or property before entering any amounts on the worksheets in Form 8582.

If the result is a ***net loss,*** treat the income and losses the same as any income or losses from that type of passive activity (trade or business activity or rental activity).

If the result is ***net income,*** do not enter any of the income or losses from the activity or property on Form 8582 or the worksheets. Instead, enter income or loses on the form and schedules you normally use. See *Treatment of net income*, later.

Significant participation passive activities. If your passive activity gross income from significant participation passive activities exceeds your passive activity deductions from those activities, a ratable portion of your net income from each significant participation passive activity is treated as nonpassive income. See *Worksheet A for Significant Participation Passive Activities*, later. A significant participation passive activity is any trade or business activity (defined earlier) in which you participated for more than 100 hours during the tax year and did not materially participate. See *Material Participation*, earlier.

Nondepreciable rental property. If you have net passive income (including prior year unallowed losses) from renting property in a rental activity, and less than 30% of the unadjusted basis of the property is subject to depreciation under section 167 of the Internal Revenue Code, the net passive income is treated as nonpassive income.

If you have an overall loss (including prior year unallowed losses) from this rental activity, the overall loss is treated as any other passive activity loss. Use Worksheet 1, Form 8582, if you qualify for active participation in the activity or Worksheet 2 if you do not qualify for active participation.

For more information, see Temporary Regulations section 1.469-2T(f)(3).

Equity-financed lending activities. If you have gross income from an equity-financed lending activity, the lesser of the net passive income or the equity-financed interest income is nonpassive income.

For more information, see Temporary Regulations section 1.469-2T(f)(4).

Rental of property incidental to a development activity. Net passive income from this type of activity will be treated as nonpassive income if ***all*** of the following apply.

1) You recognize gain from the sale, exchange, or other disposition of the rental property during the tax year.
2) You started to rent the item of property less than 12 months before the date of disposition.
3) You materially participated or significantly participated for any tax year in an activity that involved the performance of services for the purpose of enhancing the value of the property (or any other item of property, if the basis of the property disposed of is determined in whole or in part by reference to the basis of that item of property).

For more information, see Temporary Regulations section 1.469-2T(f)(5).

Property rented to a nonpassive activity. If you rent property to a trade or business activity in which you materially participated, net rental income from the property is treated as nonpassive income. This rule does not apply to net income from renting property under a written binding contract entered into before February 19, 1988.

Acquisition of an interest in a passthrough entity that licenses intangible property. Net royalty income from intangible property held by a passthrough entity in which you own an interest may be treated as nonpassive royalty income. This applies if you acquired your interest in the passthrough entity after the partnership, S corporation, estate, or trust created the intangible property or performed substantial services or incurred substantial costs for developing or marketing the intangible property.

This recharacterization rule does not apply if:

1) The expenses the entity reasonably incurred in developing or marketing the property exceed 50% of the gross royalties from licensing the property that are includible in your gross income for the tax year, or
2) Your share of the expenses the entity reasonably incurred in developing or marketing the property for all tax years exceeded 25% of the fair market value of your interest in the intangible property at the time you acquired your interest in the entity.

For purposes of (2) above, capital expenditures are taken into account for the entity's tax year in which the expenditure is chargeable to a capital account, and your share of the expenditure is figured as if it were allowed as a deduction for the tax year.

Worksheet A for Significant Participation Passive Activities

Name of Activity	(a) Hours of Participation	(b) Net Loss	(c) Net Income	(d) Combine cols. (b) and (c)
Totals ▶				

Limitation on recharacterized passive income. The total gross income that is treated as nonpassive income under the rules described earlier for *Significant participation passive activities, Nondepreciable rental property,* or *Equity-financed lending activities* cannot exceed the greatest amount of gross income that is treated as nonpassive income under any one of these rules. See Temporary Regulations section 1.469-2T(f)(8).

Treatment of net income. If any of the activities listed under the *Recharacterization of Passive Income* rules had net income that is nonpassive, do not enter any income or loss from the activity on Form 8582. The net income and losses are reported on the form or schedule that you normally use. However, if you must complete Form 8582 because you have other passive activities, see the instructions for line 12 later in the discussion of the worksheets for *Significant Participation Passive Activities.*

Investment income and investment expense. To compute your investment interest expense limitation on Form 4952, *Investment Interest Expense Deduction,* treat as investment income any net passive income recharacterized as nonpassive income from nondepreciable rental property, an equity-financed lending activity, or a passthrough entity's activity of licensing intangible property.

Significant Participation Passive Activities

A significant participation passive activity is any trade or business activity in which you participated for more than 100 hours during the tax year but did not materially participate. See *Material Participation,* earlier.

If your gross income from all significant participation passive activities is more than your deductions from those activities, a part of your net income from each significant participation passive activity is treated as nonpassive income.

Worksheet A

Complete Worksheet A if you have income or losses from any trade or business activity in which you participated for more than 100 hours during the tax year but did not otherwise meet any of the material participation tests.

Enter the names of the activities in the left-hand column.

Column (a). Enter the number of hours you participated in each activity and total the column. If the total exceeds 500, do not complete Worksheet A. Report all the income and losses from these activities on the forms and schedules you normally use. Do not use Form 8582 and skip Worksheet B.

Note. If any activity has prior year unallowed losses, they are allowed only to the extent that the activity has current year net income. Include in Worksheet 2 of Form 8582 any prior year unallowed losses in excess of current year net income, or from an activity with a net loss.

Column (b). Enter the current year net loss, if any, from the activity. The current year net loss should not include any prior year unallowed losses. Include on Form 8582 any prior year unallowed losses from that activity if the activity has a current year net loss. See Worksheet 2 of Form 8582.

Worksheet B for Significant Participation Activities (Keep for your records.)

Name of activity	(a) Activities with net income	(b) Ratio See instructions	(c) Nonpassive income See instructions	(d) Passive income Subtract col. (c) from col. (a)
Totals ▶		1.00		

Adjustment to Line 12 of Form 8582

The following adjustment will either increase or decrease the amount on line 12 of Form 8582.

A. Add net loss activities that are pre-enactment interests from column (b) of Worksheet A . . . . . _____

B. Add net income activities that are pre-enactment interests, from column (d) of Worksheet B . . . . . _____

C. Combine lines A and B. If the result is net income, subtract it from the tentative amount on line 12 of Form 8582 and enter the difference, but not less than -0-, as the final amount on line 12. If the result is a net loss, add it to the tentative amount on line 12 and enter the total as the final line 12 amount . . . . . _____

Note: *Line C in the above computation is an adjustment that has to be made to line 12 of Form 8582. Make the adjustment to line 12 of Form 8582, but report all of the current year income and losses from the activities listed in Worksheet A and any prior year unallowed losses allowed to the extent of current year net income on the forms and schedules you normally use. Do not include these amounts on Form 8582. If any of the activities had prior year unallowed losses that were not allowed, enter those amounts in column (c) of Worksheet 2 of Form 8582.*

Column (c). Enter net income, if any, from the activity. Reduce the current year net income by the prior year unallowed losses, but not below -0-, if the activity has current year net income and prior year unallowed losses. Include on Form 8582 the amount of prior year unallowed losses that are more than current year net income from the activity.

Note. The prior year unallowed loss from an activity is the unallowed loss from column (c) of Worksheet 4 in your 1989 Form 8582 Instructions.

Column (d). Combine amounts in the Totals row for columns (b) and (c) and enter the net income or net loss in column (d). If the total for column (d) is a net loss and the total hours in column (a) do not exceed 500, skip Worksheet B. Include the income and losses in Worksheet 2 of Form 8582.

If the total for column (d) is net income, the total hours in column (a) do not exceed 500, and you must complete Form 8582 because you have other passive activities to report, complete Worksheet B and the *Adjustment to Line 12 of Form 8582* computation. However, you do not have to complete Form 8582 if column (d) is net income, the total hours in column (a) do not exceed 500, and you have no passive activities that are not significant participation activities. If you do not have to complete Form 8582, skip Worksheet B. Report the net income and net losses from columns (b) and (c) on the forms and schedules you normally use.

Worksheet B

List only the significant participation passive activities that have net income.

Column (a). Enter the net income of each activity from column (c) of Worksheet A. If you entered -0- in column (c) because the net income was reduced by prior year unallowed losses, enter -0-.

Column (b). Divide each of the individual net income amounts in column (a) by the total of column (a). Enter the ratio for each of the activities in column (b). The total of the ratios should equal 1.00.

Column (c). Multiply the total of column (d) of Worksheet A by each of the ratios in column (b). Enter the results in column (c).

Column (d). Subtract column (c) from column (a). To this figure, add the amount, if any, that net income was reduced by prior year unallowed losses. Enter the result in column (d). Also, complete the *Adjustment to Line 12 of Form 8582* computation which follows Worksheet B.

Significant participation activities. If you completed Worksheet B and the line 12 computation above, either increase or decrease (but not below -0-) the amount you get when you subtract line 11 from line 10 on Form 8582. If line 10, Form 8582, and line C above are losses, add the losses and enter the result on line 12, Form 8582. If line 10 is a loss and line C is income, reduce the amount you get when you subtract line 11 from line 10 by the income on line C, but not below -0-. If line 10 is income and line C is a loss, the loss on line C is entered on line 12 but only to the extent that it exceeds line 10.

Example. Line 10 is income of $4,325 and line C is a loss of ($4,850). Enter $525 on line 12 and go to line 13. If line 10 had shown income of $4,850 and line C had shown a loss of ($4,325), -0- would be entered on line 12.

Other activities subject to the recharacterization of passive income rules. If you had activities, other than significant participation activities, that were subject to the recharacterization of passive income rules, you will have to adjust line 12 only if the activity is a pre-enactment activity, and the activity has prior year unallowed losses.

Example. You have nondepreciable rental property that has current year gross income of $250,000, current year deductions of $100,000, and prior year unallowed losses of $90,000. Because the gross income exceeds current year and prior year losses by $60,000 ($250,000 − $190,000), the $60,000 is treated as nonpassive income, and the remaining $190,000 is passive income. If line 12 of Form 8582 has a loss from other passive activities, line 12 must be reduced by the $90,000 of passive income attributable to prior year unallowed losses.

Pre-enactment interest. A pre-enactment interest is a qualified interest in a pre-enactment activity. Your interest in an undertaking is treated as a qualified interest in an activity if for 1990 the undertaking continues business and rental operations of an undertaking that you held on October 22, 1986, and have held at all times since that date, or that you acquired after October 22, 1986, under one or more written binding contracts that you were a party to on October 22, 1986, and have held at all times since you acquired the interest.

Pre-enactment activity. An activity is a pre-enactment activity if any of the business and rental operations that are part of the activity continue business and rental operations that any person was conducting on October 22, 1986, or at least 50% (by value) of the property used in the activity during the tax year was either in existence or under construction on August 16, 1986, or acquired or constructed by any person under a written binding contract in effect on August 16, 1986.

Nonpassive Income

Losses from passive activities can offset only income from passive activities. Income from passive activities does not include income such as:

1) Income from an activity that is not a passive activity. These activities are discussed earlier under *Activities That Are Not Passive Activities.*
2) Gain from the disposition of substantially appreciated property that had been used in a nonpassive activity. However, the gain is passive income if the property was used in a passive activity for either (1) 20% of the time you held the property or (2) the entire 24-month period ending on the disposition date.
3) Portfolio income. This includes interest, dividends, annuities, and royalties not derived in the ordinary course of a trade or business. Also, gain or loss from the disposition of property that produces these types of income or that is held for investment is not passive income.
4) Personal service income. This includes salaries, wages, commissions, self-employment income from trade or business activities in which you materially participated, deferred compensation, taxable social security and other retirement benefits, and payments from partnerships to partners for personal services.
5) Income from positive section 481 adjustments allocated to activities other than passive activities. Section 481 adjustments are adjustments that must be made due to changes in your accounting method.
6) Income or gain from investments of working capital.
7) Income from an oil or gas property if you treated any loss from a working interest in the property, for any tax year beginning after 1986, as a nonpassive loss, as discussed earlier under *Activities That Are Not Passive Activities.*
8) Any income from intangible property if you personally efforts significantly contributed to the creation of the property.
9) Income from a qualified low-income housing project for any year in which losses from the project would not be subject to the passive loss limitations under the special transitional rule for certain low-income housing projects. See *Low-Income Housing*, later.
10) Any other income that must be treated as nonpassive income. See *Recharacterization of Passive Income*, earlier.
11) Income from any interest in a publicly traded partnership. See *Publicly Traded Partnerships (PTPs)* in the Instructions for Form 8582.
12) State, local, and foreign income tax refunds.
13) Income from a covenant not to compete.
14) Income attributable to the reimbursement of a loss from a casualty or theft if the income is included in gross income and the loss deduction is not a passive activity deduction. See Temporary Regulations section 1.469-2T(d)(2) for information on nonpassive activity deductions.

Currently reportable gains (from installment sales that occurred before 1987) are passive income, if the activity would have been treated as a passive activity had the passive activity rules been in effect before 1987.

Phase-in rules for interests acquired before October 23, 1986. If you acquired your interest in a passive activity before October 23, 1986, and the activity was being conducted before that date, you are eligible for a phase-in of the passive activity loss and credit limitations. For 1990, the passive activity rules do not apply to 10% of the lesser of:

1) Your passive activity loss or credit disallowed without regard to the phase-in rules, or
2) Your passive activity loss or credit disallowed without regard to the phase-in or carryover rules, considering only pre-enactment interests.

1990 is the last year of the phase-in period.

Example. Mike has an interest in a race horse, Neverontime, purchased before October 23, 1986. He also has a partnership interest in a restaurant, The Feedbag, purchased in 1987. Each investment is a separate activity. He does not materially participate in the business operations of either activity. His share of Neverontime's loss for 1990 is $4,000. His share of The Feedbag's loss is $7,000.

The phase-in rule applies only to the lesser of Neverontime's loss ($4,000) or Mike's total passive activity loss of $11,000 ($4,000 + $7,000). Since Neverontime's loss of $4,000 is the lesser, $400 ($4,000 × 10%) of Mike's loss is deductible from nonpassive income. Therefore, $400 is the passive loss allowed. The remaining $10,600 ($11,000 − $400) of Mike's loss from passive activities does not qualify for the phase-in rule relief. It is an unallowed passive activity loss carried over to the next tax year.

Low-Income Housing

Any loss you have as a qualified investor in a qualified low-income housing project for any tax year in the relief period (defined next) is not treated as a passive activity loss. A ***qualified investor*** is an individual (not an estate or trust) who directly or indirectly holds an interest in a qualified project.

The ***relief period*** begins with the tax year in which you make the initial investment and ends with the earliest of:

1) The sixth tax year after the tax year in which you made the initial investment,
2) The first tax year after the tax year in which you are obligated to make the last investment, or

3) The tax year before the first tax year for which the project ceases to be a qualified low-income housing project.

Rental Activities

A rental activity is a passive activity even if you materially participated (defined earlier) in that activity. An activity is a rental activity if tangible property (real or personal) is used by customers or held for use by customers, and the gross income (or expected gross income) from the activity represents amounts paid (or to be paid) mainly for the use of the property. It does not matter whether the use is under a lease, a service contract, or some other arrangement.

Exceptions. Your activity is ***not a rental activity*** if any of the following apply.

1) The average period of customer use is 7 days or less. The average period of customer use is figured by dividing the total number of days for all rental periods by the number of rentals. If the activity involves renting more than one class of property, multiply the average period of customer use for each class by a fraction. The numerator of the fraction is the gross rental income from that class of property, and the denominator is the activity's total gross rental income. The activity's average period of customer use will equal the sum of the amounts for each class.
2) The average period of customer use is 30 days or less, as figured in (1), and significant personal services are provided with the rentals. Significant personal services are only services performed by individuals. The services cannot be excluded services. Excluded services are:
   a) Services needed to permit the lawful use of the property,
   b) Services to repair or improve property that would extend its useful life, and
   c) Services that are similar to those commonly provided with long-term rentals; for example, cleaning and maintenance of common areas or routine repairs.
3) Extraordinary personal services are provided in connection with customer use. Services are extraordinary personal services if they are performed by individuals, and the use by customers of the property is incidental to their receipt of such services.
4) The rental is incidental to a nonrental activity. The rental of property is incidental to a trade or business activity if all of the following apply:
   a) You own an interest in the trade or business activity at all times during the year,
   b) The rental property was used mainly in that trade or business activity during the current year, or during at least 2 of the 5 preceding tax years, and
   c) Your gross rental income from the property is less than 2% of the smaller of its unadjusted basis or fair market value.

   The rental of property is incidental to an activity of holding property for investment if the main purpose of holding the property is to realize a gain from its appreciation, and the gross rental income from the property is less than 2% of the smaller of the property's unadjusted basis or fair market value.

   The unadjusted basis of property is its cost not reduced by depreciation or any other basis adjustment.
5) You customarily make the rental property available during defined business hours for nonexclusive use by various customers.
6) You provide the property for use by your partnership, S corporation, or a joint venture.

If you meet any of the exceptions listed above and the activity is a trade or business activity (defined earlier) in which you materially participated (defined earlier), report any income or loss from the activity on the forms or schedules you normally use.

Rental real estate activities. Individuals can deduct losses from rental real estate activities (in which they actively participated) from up to $25,000 of nonpassive income. Similarly, they can offset credits from such activities against tax on up to $25,000 of nonpassive income after taking into account any losses allowed under this exception.

The $25,000 offset generally phases out at the rate of $0.50 for each dollar by which adjusted gross income, computed with certain modifications, exceeds $100,000. Therefore, taxpayers with modified adjusted gross incomes of $150,000 or more generally cannot use this special allowance. If you are married, filing a separate return, and lived apart from your spouse for the entire tax year, your offset amount cannot exceed $12,500. However, if you lived with your spouse at any time during the year and are filing a separate return, you cannot use this special offset to reduce your nonpassive income or tax on nonpassive income.

Example. Kate, a single taxpayer, has $70,000 in wages, $15,000 income from a limited partnership, and a $26,000 loss from rental real estate activities in which she actively participated, and less than $100,000 of modified adjusted gross income. She can reduce her $26,000 loss by her $15,000 passive income. Because she actively participated in her rental real estate activities, the remaining $11,000 rental real estate loss can be used to offset her $70,000 in wages.

Active participation. Active participation is not the same as material participation, defined earlier. Active participation is less stringent than material participation. For example, you may be treated as actively participating if you make management decisions in a significant and bona fide sense. Management decisions that are relevant for "active participation" include approving new tenants, deciding on rental terms, approving expenditures, and similar decisions. Future regulations will define "active participation."

Only individuals can actively participate in rental real estate activities. However, a decedent's estate is treated as actively participating for its tax years ending less than 2 years after the decedent's death, if the decedent would have satisfied the active participation requirements for the activity for the tax year the decedent died.

Unless future regulations provide an exception, limited partners cannot actively participate in rental real estate activities.

You do not actively participate in a rental real estate activity unless your interest in the activity (including your spouse's interest) was at least 10% by value of all interests in the activity throughout the year.

Active participation is not required to take low-income housing and rehabilitation investment credits from rental real estate activities.

Example. Mike, a bachelor, had the following income and losses during the tax year:

Salary	$42,300
Dividends	300
Interest	1,400
Rental loss	(4,000)

The rental loss came from a house Mike owned. He advertised and rented the house to the current tenant himself. He also collected the rents, and either did the repairs or hired someone to do them.

Even though the rental loss is a loss from a passive activity, Mike can use the entire $4,000 loss to offset his other income because he actively participated.

Phase-out rule. This special $25,000 offset for rental real estate in which you actively participate is reduced by 50% of the amount that your modified adjusted gross income exceeds $100,000 ($50,000 for married individuals filing separate returns and living apart at all times during the year).

Modified adjusted gross income for this purpose is figured without the following:

1) Taxable social security and railroad retirement payments,
2) Deductible contributions to individual retirement accounts (IRAs) and retirement plans described in section 501(c)(18),
3) The exclusion of income from United States savings bonds used to pay higher education tuition and fees,
4) Any passive activity loss, or
5) The deduction for half the self-employment tax.

Example. During 1990, John was unmarried. For 1990, he had $120,000 in salary, and a $31,000 loss from his rental real estate activities in which he actively participated and had acquired on November 30, 1986. He had no self-employment earnings. He had no social security or railroad retirement benefits, nor did he make contributions to an IRA or exclude interest from U.S. savings bonds used to pay education expenses. When he files his 1990 return, he may deduct only $15,000 of his passive activity loss. He must carry over the remaining $16,000 passive activity loss to 1991. His deduction and carryover are computed as follows:

Adjusted gross income, modified as required	$120,000
Minus amount not subject to phase-out	100,000
Amount subject to phase-out rule	$ 20,000
Multiply by applicable percentage	× 50%
Required reduction to APRRE* offset amount	$ 10,000
Maximum offset	$ 25,000
Less required reduction (see above)	10,000
Adjusted offset amount for APRRE* activities	$ 15,000
Passive loss from rental real estate	$ 31,000
Deduction allowable/ Adjusted offset amount (see above)	15,000
Amount that must be carried forward	$ 16,000

*Active Participation Rental Real Estate

Note. A higher phase-out range applies to low-income housing credits for property placed in service before 1990, and rehabilitation investment credits from rental real estate activities. For those credits, the phase-out of the $25,000 offset starts when your modified adjusted gross income exceeds $200,000 ($100,000 if you are a married individual filing a separate return and living apart at all times during the year).

There is no phase-out of the $25,000 offset for low-income housing property placed in service after 1989. If you held an indirect interest in the property through a partnership, S corporation, or other pass-through entity, this special rule will not apply unless you also acquired your interest in the pass-through entity after 1989.

The $25,000 offset is applied first to passive activity losses, then to credits from rental real estate activities with active participation, then to credits for rehabilitation investment credits from rental real estate activities and low-income housing credits for property placed in service before 1990, and then any remaining offset is applied to low-income housing credits for property placed in service after 1989.

Dispositions

Any passive activity losses (but not credits) that have not been allowed (including current year losses) generally are allowed in full in the tax year you dispose of your entire interest in the activity. However, for the losses to be allowed, you must dispose of your entire interest in the activity in a transaction in which all realized gain or loss is recognized. Furthermore, the person acquiring the interest from you must not be related to you.

Note. If you have a capital loss on the disposition of an interest in a passive activity, the loss may be limited by the capital loss rules. The limit is generally $3,000 for individuals. See Publication 544, *Sales and Other Dispositions of Assets*, for more information.

Treatment of excess losses. If all gain or loss realized on the disposition is recognized, the excess of:

1) The sum of:
   a) Any loss from the activity for the tax year (including losses carried over from prior years), plus
   b) Any loss realized on the disposition,

   minus
2) Net income or gain for the tax year from all passive activities (other than the activity disposed of),

will not be treated as a loss from a passive activity.

Example. Ray earned a $60,000 salary and owned one passive activity through a 5% interest in the B Limited Partnership. He sold his entire interest in the current tax year to an unrelated person for $50,000. His adjusted basis in the partnership interest was $42,000, and he had carried over $2,000 of passive activity losses from the activity. He realized an $8,000 gain from the sale but can offset it by the $2,000 carryover loss. This offset occurs under the general passive loss rules without applying the special rules for dispositions. His $6,000 net gain is computed as follows:

Sales price	$50,000
Minus: adjusted basis	42,000
Gain	$ 8,000
Minus: carryover losses allowable	2,000
Net gain	$ 6,000

If Ray sold his interest for $30,000, instead of $50,000, his deductible loss would be $5,000, computed as follows:

Sales price	$30,000
Minus: adjusted basis	42,000
Capital loss	$12,000
Minus: capital loss limit	3,000
Capital loss carryover	$ 9,000
Allowable capital loss on sale	$ 3,000
Carryover losses allowable	2,000
Total current deductible loss	$ 5,000

Ray deducts the $5,000 total current deductible loss in the current tax year. He must carry over the $9,000 capital loss, which is not subject to the passive activity loss limit. He will treat it as any other capital loss carryover.

Installment sale of an entire interest. If you sell your entire interest in a passive activity through an installment sale, losses are allowed each year in the ratio of the gain recognized in the tax year to the gain remaining to be recognized at the beginning of the year.

Example. John Ash has a total gain of $10,000 from the sale of an entire interest in a passive activity. Under the installment method he reports $2,000 of gain each year, including the year of sale. For the first year, 20% (2,000/10,000) of the losses are allowed. For the second year, 25% (2,000/8,000) of the remaining losses are allowed.

Dispositions by gift. If you give away any interest in a passive activity, the accumulated unused passive activity losses allocable to the interest cannot be deducted in any tax year. Instead, the basis of the transferred interest must be increased by the amount of any such losses allocable to the interest for which a deduction has not been allowed.

Dispositions by death. If a passive activity interest is transferred because the owner dies, accumulated unused losses are allowed as a deduction against the decedent's income in the year of disposition. However, losses are allowed only if they exceed the transferee's basis in the passive activity that has been increased under the rules for determining the basis of property acquired from a decedent. For example, if the basis of an interest in a passive activity in the hands of a transferee is increased by $6,000 and unused passive activity losses of $8,000 were allocable to the interest at the date of death, then the decedent's deduction for the tax year would be limited to $2,000 ($8,000 − $6,000).

How To Report Your Passive Activity Loss

Reporting your passive activities may require more than one form or schedule. The actual number of forms depends on the number and types of activities you must report. Some forms that may be required are:

- Schedule A (Form 1040), *Itemized Deductions*,
- Schedule C (Form 1040), *Profit or Loss From Business*,
- Schedule D (Form 1040), *Capital Gains and Losses*,
- Schedule E (Form 1040), *Supplemental Income and Loss*,
- Schedule F (Form 1040), *Farm Income and Expenses*,
- Form 8582, *Passive Activity Loss Limitations*, and
- Form 8582-CR, *Passive Activity Credit Limitations*.

Regardless of the number or complexity of passive activities you have, you should use only one Form 8582.

The following example shows how to report your passive activities. In this example, in addition to Form 1040, the taxpayers (Chuck and Liz) use Form 8582 (to figure allowed passive activity deductions), Schedule E (to report rental activities and partnership activities), and Form 4797 (to figure the gain and allowable loss from assets sold that were used in the activities).

No matter how many activities you have, you should report each activity on the form you would use if the activity were not passive. Fill out Form 8582 to determine if the passive loss rules disallow any of your losses. Fill out Schedule E, as far as you can, for your rental activities. Use Form 4797 to show gains and losses from the sale of business assets. The Instructions for Form 8582 explain how to use the other forms with Form 8582.

General Information

Chuck and Liz are married, file a joint return, and have combined wages of $132,000 in 1990. They own interests in the following activities. They are at risk for all of their investment in the activities. They did not materially participate in any of the business activities. They actively participated in the rental real estate activities in 1990 and all prior years.

1) Activity A is a rental real estate activity. Its income and expenses are reported on Schedule E. Chuck and Liz own a pre-enactment interest in Activity A. Their records show a loss from operations of $15,000 in 1990. Their records also show a gain of $2,776 in 1990 from the sale of section 1231 assets used in the activity. That section 1231 gain is reported in Part I of Form 4797. In 1989, they completed the Worksheets in the Instructions for Form 8582 and calculated that $6,667 of Activity A's Schedule E loss for 1989 was disallowed by the passive loss rules. That loss is carried over to 1990 as a prior year unallowed Schedule E loss.
2) Activity B is a rental real estate activity. Its income and expenses are reported on Schedule E. Chuck and Liz own a post-enactment interest in Activity B. Their records show a loss from operations of $11,600 in 1990. In 1989, they completed the Worksheets in the Instructions for Form 8582 and calculated that $8,225 of Activity B's Schedule E loss for 1989 was disallowed by the passive loss rules. That loss is carried over to 1990 as a prior year unallowed Schedule E loss.
3) Partnership #1 holds a trade or business activity and is not a publicly traded partnership (PTP). (For a discussion of PTPs, see the Instructions for Form 8582.) Partnership #1 reports a $4,000 distributive share of its 1990 profits to Chuck and Liz on line 1 of Schedule K-1, Form 1065. Their interest in the partnership is a post-enactment interest. They report that profit on Schedule E. In 1989, they completed the Worksheets in the Instructions for Form 8582 and calculated that $2,600 of their distributive share of Partnership #1's 1989 loss was disallowed by the passive loss rules. That loss is carried over to 1990 as a prior year unallowed Schedule E loss.
4) Partnership #2 is a PTP that holds a trade or business activity. In 1990, Chuck and Liz disposed of their entire interest in Partnership #2. They do not report that gain on Form 8582 because Partnership #2 is a PTP. They recognize a long-term capital gain of $15,300, which they report on Schedule D. The partnership reports a $1,200 distributive share of its 1990 losses to them on line 1 of Schedule K-1, Form 1065. They report that loss on Schedule E. In 1989, they completed the PTP Worksheet in the Instructions for Form 8582 and calculated that $2,445 of their distributive share of Partnership #2's 1989 loss was disallowed by the passive loss rules. That loss is carried over and added to the $1,200 Schedule E loss. See the discussion of PTPs in the Instructions for Form 8582.

Step One—Completing the Tax Forms Before Figuring the Passive Activity Loss Limits

As far as they can, Chuck and Liz complete the forms they usually use to report income or expenses from their activities. They enter their combined wages, $132,000, on Form 1040. They complete line 9d of Schedule D showing a long-term capital gain of $15,300 from Partnership #2 in column (g) and enter the $1,200 current year loss and $2,445 prior year loss in column (g) of Schedule E, Part II. They complete Schedule E, Part I, through line 23. Since their rental activities are passive, they must complete Form 8582 to figure the deductible losses to enter on line 24.

They enter the gain from the sale of the section 1231 assets of Activity A on Form 4797. They enter the $4,000 profit from Partnership #1 on Schedule E, Part II.

Step Two—Form 8582 and the Worksheets

Chuck and Liz now complete Form 8582 and the worksheets that apply to their passive activities. Because they are at risk for all amounts invested in their activities, they do not complete Form 6198 before Form 8582. (The second part of this publication explains the at-risk rules.)

Worksheet 1, Part 1—Pre-Enactment

1) Because Chuck and Liz own a pre-enactment interest in Activity A (a rental real estate activity), they compute the gains and losses on Part 1 of the Worksheet. They enter all amounts from the activity even though they already reported the gain of $2,776 on Form 4797, since all income or loss from an activity must be taken into account to figure the loss allowed. They write Activity A under Name of activity. Then they enter:
   a) $2,776 gain in column (a) from Form 4797, line 2(h).
   b) ($15,000) loss in column (b) from Schedule E, line 22, column A.
   c) ($6,667) prior year unallowed loss in column (c) from their worksheets used in 1989.
   d) They combine the three amounts.
   e) Since the result ($18,891) is an overall loss, they enter it in column (e).
2) They separately add column (a) and column (b) of Worksheet 1, Part 1.
   a) They enter $2,776 in column (a) on the Total line and also on Form 8582, Part I, line 1a.
   b) They enter ($15,000) in column (b) on the Total line and also on Form 8582, Part I, line 1b.
3) They combine lines 1a and 1b, Form 8582, and put the net loss ($12,224) on line 1c.

Worksheet 1, Part 2—Post-Enactment

1) Activity B is a post-enactment rental activity with a 1990 loss and a prior year unallowed loss. Chuck and Liz enter Activity B under Name of activity. Then they enter:
   a) ($11,600) loss in column (b), Worksheet 1, Part 2, from Schedule E, line 22, column B.
   b) ($8,225) prior year unallowed loss in column (c) from their 1989 worksheets.
   c) Then they combine these two figures and enter the total loss ($19,825) in column (e).
2) They total the entries in Part 2, column (b) and enter the result ($11,600) on the Total line and on Form 8582, line 1e. They also enter this amount on line 1f because line 1d has no entry.
3) They total the entries in Part 1 and Part 2, column (c) and enter the result ($14,892) on the Total line and on Form 8582, line 1h.
4) Line 1g, Form 8582, is figured by combining lines 1c and 1f and the result, a loss of ($23,824), is entered.
5) Line 1i is completed by combining lines 1g and 1h and entering the result, ($38,716)

Worksheet 2. Because Partnership #1 is a nonrental passive activity, Chuck and Liz enter the appropriate information in Part 2 of Worksheet 2 similar to the way they reported their rental activities on Worksheet 1. Then they enter the totals on Form 8582, Part I, lines 2d through 2i

Reporting Income From Column (d), Worksheets 1 and 2. Activities that have an overall gain in column (d) are not used any further in the calculations for Form 8582. At this point, overall gain activities should be entered on the forms or schedules that would normally be used. They have one activity with an overall gain ($4,000 − $2,600 = $1,400). This is Partnership #1, which is shown in Worksheet 2, Part 2. They enter this partnership directly on Part II, Schedule E. They write:

1) Partnership #1 on Line A in column (a).
2) "P" in column (b) since this entity is a partnership.
3) No entry in (c) since it is not a foreign partnership.
4) The identification number in (d).
5) A check mark in (e) since all of their investment is at risk.
6) ($2,600) in column (g) which is the prior year unallowed Schedule E loss.
7) $4,000 in column (h), their distributive share of 1990 profit.

Step Three—Completing Form 8582

Chuck and Liz must now fill out Part II, Form 8582 since they will need the figure on line 9 to complete Worksheet 3. They enter all amounts without brackets as though they were positive. They can then complete Part II of Form 8582.

1) They enter $37,316 on line 4 since this is the smaller of line 1i or line 3.
2) They enter $150,000 on line 5 since they are married and filing a joint return.
3) They enter $143,655, their modified adjusted gross income, on line 6. See the Instructions for Form 8582 for a discussion of modified adjusted gross income. The $143,655 is made up of their wages, $132,000, plus their overall gain, $11,655, from the entire disposition of Partnership #2, a PTP. They had a long-term capital gain of $15,300 from the entire disposition on Schedule D. They also had a 1990 distributive share of its loss, $1,200, and a prior year unallowed loss, $2,445, combined on Schedule E. Netting these amounts to arrive at modified adjusted gross income gives them an overall gain of $11,655.
4) They subtract line 6 from line 5 and enter the result, $6,345, on line 7.
5) They multiply line 7 by 50% and enter the result, $3,173, on line 8. No matter what the result, they cannot enter more than $25,000 on line 8.
6) They enter the smaller of line 4 or line 8 on line 9, or $3,173.
7) They combine lines 1c and 2c, and enter the result, $12,224, on line 10, again as a positive number.
8) They enter $3,173 on line 11 since this is the smaller of line 1c or line 6.
9) They subtract line 11 from line 10 and enter the result, $9,051, on line 12.
10) They subtract line 9 from line 3, and enter the result, $34,143, on line 13.
11) They enter $9,051 on line 14 since this is the smaller of line 12 or line 13.
12) They enter $905 on line 15, the result of multiplying line 14, $9,051, by 10%.
13) They enter $3,173 on line 16, the amount from line 9.
14) They add lines 15 and 16, and enter the result, $4,078, on line 17.
15) They add the income on lines 1a and 2d and enter the result, $6,776, on line 18.
16) They add lines 17 and 18, and enter the result, $10,854, on line 19

Step Four—Completing Worksheet 3

Chuck and Liz must complete Worksheet 3 since they have an overall loss in column (e) of Worksheet 1 and an amount on line 9 of Form 8582.

1) In the two left-hand columns, they write the names of the activities, A and B, and the schedules the activities are reported on, Schedule E.
2) They fill in column (a) with the losses from Worksheet 1, column (e). They add up the amounts, and enter the result, $38,716, in the Total line without brackets.
3) They figure the ratios for column (b) by dividing each amount in column (a) by the Total line and entering the result in (b). These ratios, when added, should equal 1.00.
4) Now they are ready to prorate their special allowance for active participation rental real estate activities (from Form 8582, Part II, line 9) among their rental activities. They multiply the amount from line 9, Form 8582, $3,173, by each of the ratios in Worksheet 3, column (b) and enter the results on the appropriate line in column (c). The total should equal $3,173.
5) They subtract column (c) from column (a) and enter each result in column (d).

Step Five—Completing Worksheet 4

You must complete Worksheet 4 if you have an overall loss in column (e) of Worksheet 2 or losses in column (d) of Worksheet 3 (or column (e) of Worksheet 1 if you did not have to complete Worksheet 3). Chuck and Liz fill out Worksheet 4 with the activities from Worksheet 3. They have no activities showing a loss in Worksheet 2, column (e). They fill in the names of the activities and the schedules or forms each will be reported on in the two left-hand columns of Worksheet 4.

1) In column (a), they enter the losses from Worksheet 3, column (d). These losses are entered as positive numbers, not in brackets. They add the numbers and enter the total, $35,543, on the Total line.
2) They divide each of the losses in column (a) by the amount on the column (a) Total line, and enter each result in column (b). These numbers should also add up to 1.00.
3) Now they use the computation worksheet for column (c) on page 8 of the Instructions for Form 8582 to figure the unallowed loss to allocate in column (c).
   a) On line A of the computation worksheet, they enter the amount from line 3 of Form 8582, $37,316, as a positive number.
   b) On line B, they enter the amount from line 17 of Form 8582, $4,078.
   c) They subtract line B from line A and enter the result, $33,238, on line C.
   d) They multiply line C, $33,238, by each of the ratios in column (b) and enter the results in column (c). This is their total unallowed loss for 1990.

Step Six—Using Worksheets 5 and 6

Chuck and Liz now decide whether they must use Worksheet 5, Worksheet 6, or both to figure their allowed losses. If the losses from each activity entered on Worksheet 4 are reported on only one form or schedule, then Worksheet 5 is used. If any activity has a loss that is reported on two or more schedules or forms (for example, a loss that must be reported partly on Schedule C and partly on Form 4797), Worksheet 6 is used. They must use only Worksheet 5 to figure their allowed losses.

Worksheet 5. Chuck and Liz determine that two of the activities they entered on Worksheet 4 should go on Worksheet 5 since the losses are

reported on Schedule E only. The activities are A and B.

1) They enter the names of the activities and the schedules to be used in the two left-hand columns of Worksheet 5.
2) In column (a), they enter the total loss for each activity. These losses include the current year loss plus the prior year unallowed loss. They find these amounts by adding columns (b) and (c) in Parts 1 and 2 of Worksheet 1.
3) In column (b), they enter the unallowed loss for each activity already figured in Worksheet 4, column (c). They must save this information to use next year in figuring their passive losses.
4) In column (c), they figure their allowed losses for 1990 by subtracting their unallowed losses, column (b), from their total losses, column (a). These allowed losses are entered on the appropriate schedules. They enter their losses from Activities A and B on Schedule E, Part I, line 23, because these are rental properties.

Step Seven—Entering the Remaining Activities

Chuck and Liz now figure the gains and allowed losses from their remaining activities which are not reported on Form 8582. This activity is Partnership #2.

Partnership #2 is a PTP and is not entered on Form 8582. In addition, they sold their entire interest in Partnership #2 in 1990. They write:

1) The name of the activity in Schedule E, Part II, line 8, column (a).
2) "P" in column (b).
3) The employer identification number in column (d).
4) A check mark in column (e) since all of their investment is at risk.
5) ($3,645) in column (g), a combination of their 1990 loss ($1,200) and their prior year unallowed loss ($2,445).
6) $15,300 in Schedule D, Part II, line 9d was already entered in Step One.

Step Eight—Finishing the Reporting of the Passive Activities

Chuck and Liz summarize the entries on Schedule E, Schedule D, and Form 4797, and enter the amounts on the appropriate lines of their Form 1040. They enter:

1) The total Schedule D gain, $18,076, on line 13.
2) Schedule E loss ($10,499) on line 18.

Chuck and Liz are now able to complete their return, having limited their losses from their passive activities as required.

Form **1040** Department of the Treasury—Internal Revenue Service **U.S. Individual Income Tax Return** **1990**

For the year Jan.–Dec. 31, 1990, or other tax year beginning , 1990, ending , 19 | OMB No. 1545-0074

Label (See Instructions on page 8.) Use IRS label. Otherwise, please print or type.

LABEL HERE

Your first name and initial: CAR-RT-SORT **CR01
If a jc: CW 123-00-4567 567-00-1234
Hom: Chuck Eric & Liz Woods
City, t: 6925 Country Road, Anytown, VA 22306
Last name
Apt. no.
IRS

Your social security number: 123 00 4567
Spouse's social security number: 567 00 1234

For Privacy Act and Paperwork Reduction Act Notice, see instructions.

Presidential Election Campaign (See page 9.)

Do you want $1 to go to this fund? — Yes: x — No:
If joint return, does your spouse want $1 to go to this fund? — Yes: x — No:

Note: *Checking "Yes" will not change your tax or reduce your refund.*

Filing Status Check only one box.

1 — Single. (See page 10 to find out if you can file as head of household.)
2 — x — Married filing joint return (even if only one had income)
3 — Married filing separate return. Enter spouse's social security no. above and full name here. ▶
4 — Head of household (with qualifying person). (See page 10.) If the qualifying person is your child but not your dependent, enter this child's name here. ▶
5 — Qualifying widow(er) with dependent child (year spouse died ▶ 19). (See page 10.)

Exemptions (See Instructions on page 10.)

6a ☐ **Yourself** If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a. But be sure to check the box on line 33b on page 2
b ☐ **Spouse**

No. of boxes checked on 6a and 6b: 2

c **Dependents:**

(1) Name (first, initial, and last name)	(2) Check if under age 2	(3) If age 2 or older, dependent's social security number	(4) Dependent's relationship to you	(5) No. of months lived in your home in 1990

If more than 6 dependents, see Instructions on page 11.

No. of your children on 6c who:
- lived with you
- didn't live with you due to divorce or separation (see page 11)

No. of other dependents on 6c

d If your child didn't live with you but is claimed as your dependent under a pre-1985 agreement, check here ▶ ☐

Add numbers entered on lines above ▶ 2

e Total number of exemptions claimed

Income Attach Copy B of your Forms W-2, W-2G, and W-2P here. If you do not have a W-2, see page 8. Attach check or money order on top of any Forms W-2, W-2G, or W-2P.

7	Wages, salaries, tips, etc. *(attach Form(s) W-2)*	7	132,000
8a	**Taxable** interest income *(also attach Schedule B if over $400)*	8a	
b	**Tax-exempt** interest income (see page 13). DON'T include on line 8a [8b]		
9	Dividend income *(also attach Schedule B if over $400)*	9	
10	Taxable refunds of state and local income taxes, if any, from worksheet on page 14	10	
11	Alimony received	11	
12	Business income or (loss) *(attach Schedule C)*	12	
13	Capital gain or (loss) *(attach Schedule D)*	13	18,076
14	Capital gain distributions not reported on line 13 (see page 14)	14	
15	Other gains or (losses) *(attach Form 4797)*	15	
16a	Total IRA distributions [16a] — 16b Taxable amount (see page 14)	16b	
17a	Total pensions and annuities [17a] — 17b Taxable amount (see page 14)	17b	
18	Rents, royalties, partnerships, estates, trusts, etc. *(attach Schedule E)*	18	(10,499)
19	Farm income or (loss) *(attach Schedule F)*	19	
20	Unemployment compensation (insurance) (see page 16)	20	
21a	Social security benefits [21a] — 21b Taxable amount (see page 16)	21b	
22	Other income (list type and amount—see page 16)	22	
23	Add the amounts shown in the far right column for lines 7 through 22. This is your **total income** ▶	23	139,577

Adjustments to Income (See Instructions on page 17.)

24a	Your IRA deduction, from applicable worksheet on page 17 or 18	24a	
b	Spouse's IRA deduction, from applicable worksheet on page 17 or 18	24b	
25	One-half of self-employment tax (see page 18)	25	
26	Self-employed health insurance deduction, from worksheet on page 18	26	
27	Keogh retirement plan and self-employed SEP deduction	27	
28	Penalty on early withdrawal of savings	28	
29	Alimony paid. Recipient's SSN ▶	29	
30	Add lines 24a through 29. These are your **total adjustments** ▶	30	

Adjusted Gross Income

31	Subtract line 30 from line 23. This is your **adjusted gross income.** *If this amount is less than $20,264 and a child lived with you, see page 23 to find out if you can claim the "Earned Income Credit" on line 57* ▶	31	139,577

SCHEDULE D (Form 1040)

Department of the Treasury
Internal Revenue Service

Capital Gains and Losses

(And Reconciliation of Forms 1099-B for Bartering Transactions)

▶ Attach to Form 1040. ▶ See Instructions for Schedule D (Form 1040).

▶ For more space to list transactions for lines 2a and 9a, get Schedule D-1 (Form 1040).

OMB No. 1545-0074

1990

Attachment Sequence No. **12A**

Name(s) shown on Form 1040: Chuck Eric & Liz Woods

Your social security number: 123 | 00 | 4567

1 Enter the total sales of stocks, bonds, other securities, and real estate transactions reported to you for 1990 on Forms 1099-B and 1099-S (or on substitute statements). If this total is not the same as the total of lines 2c and 9c, column (d), attach a statement explaining the difference. (Do not include on this line amounts from Form 1099-S if you reported them on another form or schedule.) **See Instructions for line 1** 1

Part I Short-Term Capital Gains and Losses—Assets Held One Year or Less

(a) Description of property (Example, 100 shares 7% preferred of "Z" Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold (Mo., day, yr.)	(d) Sales price (see Instructions)	(e) Cost or other basis (see Instructions)	(f) LOSS If (e) is more than (d), subtract (d) from (e)	(g) GAIN If (d) is more than (e), subtract (e) from (d)
2a Stocks, Bonds, Other Securities, and Real Estate. Include Form 1099-B and 1099-S Transactions. See Instructions.						
2b Amounts from Schedule D-1, line 2b (attach Schedule D-1)						
2c **Total of All Sales Price Amounts.** Add column (d) of lines 2a and 2b . . . ▶ 2c						
2d Other Transactions (Do NOT include real estate transactions from Forms 1099-S. Report them on line 2a.)						

3	Short-term gain from sale or exchange of your home from Form 2119, line 10 or 14c	3	
4	Short-term gain from installment sales from Form 6252, line 22 or 30	4	
5	Net short-term gain or (loss) from partnerships, S corporations, and fiduciaries	5	
6	Short-term capital loss carryover from 1989 Schedule D, line 29	6	
7	Add lines 2a, 2b, 2d, and 3 through 6, in columns (f) and (g)	7	( )
8	**Net short-term gain or (loss).** Combine columns (f) and (g) of line 7	8	

Part II Long-Term Capital Gains and Losses—Assets Held More Than One Year

(a) Description of property (Example, 100 shares 7% preferred of "Z" Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold (Mo., day, yr.)	(d) Sales price (see Instructions)	(e) Cost or other basis (see Instructions)	(f) LOSS If (e) is more than (d), subtract (d) from (e)	(g) GAIN If (d) is more than (e), subtract (e) from (d)
9a Stocks, Bonds, Other Securities, and Real Estate. Include Form 1099-B and 1099-S Transactions. See Instructions.						
9b Amounts from Schedule D-1, line 9b (attach Schedule D-1)						
9c **Total of All Sales Price Amounts.** Add column (d) of lines 9a and 9b . . . ▶ 9c						
9d Other Transactions (Do NOT include real estate transactions from Forms 1099-S. Report them on line 9a.)						
Partnership #2 (entire disposition of passive activity)						15,300

10	Long-term gain from sale or exchange of your home from Form 2119, line 10 or 14c	10	
11	Long-term gain from installment sales from Form 6252, line 22 or 30	11	
12	Net long-term gain or (loss) from partnerships, S corporations, and fiduciaries	12	
13	Capital gain distributions	13	
14	Gain from Form 4797, line 7 or 9	14	2,776
15	Long-term capital loss carryover from 1989 Schedule D, line 36	15	
16	Add lines 9a, 9b, 9d, and 10 through 15, in columns (f) and (g)	16	( ) 18,076
17	**Net long-term gain or (loss).** Combine columns (f) and (g) of line 16	17	18,076

Name(s) shown on Form 1040. (Do not enter name and social security number if shown on other side.) | Your social security number

Part III Summary of Parts I and II

18	Combine lines 8 and 17, and enter the net gain or (loss) here. If the result is a gain, **stop here** and also enter the gain on Form 1040, line 13	18	18,076
19	If line 18 is a (loss), enter here and as a (loss) on Form 1040, line 13, the **smaller** of:		
a	The (loss) on line 18; or		
b	($3,000) or, if married filing a separate return, ($1,500)	19	( )
	Note: *When figuring whether line 19a or 19b is* ***smaller,*** *treat both numbers as if they were positive.* Go on to Part IV if the loss on line 18 is more than $3,000 ($1,500, if married filing a separate return), OR if taxable income on Form 1040, line 37, is zero.		

Part IV Capital Loss Carryovers from 1990 to 1991

Section A.—Carryover Limit

20	Enter taxable income from Form 1040, line 37. **(If Form 1040, line 37 is zero, see Instructions for amount to enter.)**	20	
	Note: *For lines 21 through 36, enter all amounts as positive numbers.*		
21	Enter the loss on line 19	21	
22	Enter the amount on Form 1040, line 36	22	
23	Combine lines 20, 21, and 22. If zero or less, enter -0-	23	
24	**Carryover Limit.** Enter the **smaller** of line 21 or line 23	24	

Section B.—Short-Term Capital Loss Carryover to 1991

(Complete this section only if there is a loss on both line 8 and line 19. Otherwise, go on to Section C.)

25	Enter the loss on line 8			25	
26	Enter the gain, if any, on line 17	26			
27	Enter the amount on line 24	27			
28	Add lines 26 and 27			28	
29	**Short-term capital loss carryover to 1991.** Subtract line 28 from line 25. If zero or less, enter -0-			29	

Section C.—Long-Term Capital Loss Carryover to 1991

(Complete this section only if there is a loss on both line 17 and line 19.)

30	Enter the loss on line 17			30	
31	Enter the gain, if any, on line 8			31	
32	Enter the amount on line 24	32			
33	Enter the amount, if any, on line 25	33			
34	Subtract line 33 from line 32. If zero or less, enter -0-			34	
35	Add lines 31 and 34			35	
36	**Long-term capital loss carryover to 1991.** Subtract line 35 from line 30. If zero or less, enter -0-			36	

Part V Election Not to Use the Installment Method (Complete this part only if you elect out of the installment method and report a note or other obligation at less than full face value.)

37	Check here if you elect out of the installment method	▶ ☐
38	Enter the face amount of the note or other obligation	▶
39	Enter the percentage of valuation of the note or other obligation	▶

Part VI Reconciliation of Forms 1099-B for Bartering Transactions

(Complete this part if you received one or more Forms 1099-B or substitute statements reporting bartering income.)

			Amount of bartering income from Form 1099-B or substitute statement reported on form or schedule
40	Form 1040, line 22	40	
41	Schedule C (Form 1040)	41	
42	Schedule D (Form 1040)	42	
43	Schedule E (Form 1040)	43	
44	Schedule F (Form 1040)	44	
45	Other form or schedule (identify) (if nontaxable, indicate reason—attach additional sheets if necessary)	45	
46	Total (add lines 40 through 45)	46	

Note: *The amount on line 46 should be the same as the total bartering income on all Forms 1099-B and substitute statements received for bartering transactions.*

SCHEDULE E (Form 1040)

Department of the Treasury
Internal Revenue Service

Supplemental Income and Loss

(From rents, royalties, partnerships, estates, trusts, REMICs, etc.)

▶ Attach to Form 1040 or Form 1041.
▶ See Instructions for Schedule E (Form 1040).

OMB No 1545-0074

1990

Attachment Sequence No 13

Name(s) shown on return: Chuck Eric & Liz Woods

Your social security number: 123 00 4567

Part I Income or Loss From Rentals and Royalties **Note:** *Report farm rental income or loss from* ***Form 4835*** *on page 2, line 39.*

1 Show the kind and location of each rental property:
A Brick duplex 6924 Country Rd Anytown VA
B Condo 6915 Country Rd Anytown VA
C

	Yes	No
2 For each rental property listed on line 1, did you or your family use it for personal purposes for more than the greater of 14 days or 10% of the total days rented at fair rental value during the tax year? (See Instructions.) A		X
B		X
C		

		Properties A	Properties B	Properties C	D Totals (Add columns A, B, and C)
Rental and Royalty Income:					
3 Rents received	3	25,000	8,300		33,300
4 Royalties received	4				
Rental and Royalty Expenses:					
5 Advertising	5	600	210		
6 Auto and travel	6				
7 Cleaning and maintenance	7	1,500	525		
8 Commissions	8	1,200	420		
9 Insurance	9	2,000	700		
10 Legal and other professional fees	10	1,000	390		
11 Mortgage interest paid to banks, etc. (see Instructions)	11	9,000	8,510		17,510
12 Other interest	12				
13 Repairs	13	700	245		
14 Supplies	14	600	210		
15 Taxes	15	2,000	700		
16 Utilities	16	2,400	840		
17 Wages and salaries	17	9,000	3,150		
18 Other (list) ▶	18				
19 Add lines 5 through 18	19	30,000	15,900		45,900
20 Depreciation expense or depletion (see Instructions)	20	10,000	4,000		14,000
21 Total expenses. Add lines 19 and 20	21	40,000	19,900		
22 Income or (loss) from rental or royalty properties. Subtract line 21 from line 3 (rents) or line 4 (royalties). If the result is a (loss), see Instructions to find out if you must file **Form 6198**	22	(15,000)	(11,600)		
23 Deductible rental loss. **Caution:** *Your rental loss on line 22 may be limited. See Instructions to find out if you must file* ***Form 8582***	23	(5,449)	(2,805)	( )	
24 **Income.** Add rental and royalty income from line 22. Enter the total income here	24				-0-
25 **Losses.** Add royalty losses from line 22 and rental losses from line 23. Enter the total losses here	25				(8,254)
26 Total rental and royalty income or (loss). Combine amounts on lines 24 and 25. Enter the result here. If Parts II, III, IV, and line 39 on page 2 do not apply to you, enter the amount from line 26 on Form 1040, line 18. Otherwise, include the amount from line 26 in the total on line 40 on page 2.	26				(8,254)

Name(s) shown on return. (Do not enter name and social security number if shown on other side.) | Your social security number

Note: *If you report amounts from farming or fishing on Schedule E, you must include your gross income from those activities on line 41 below.*

Part II Income or Loss From Partnerships and S Corporations

If you report a loss from an at-risk activity, you MUST check either column **(e)** or **(f)** of line 27 to describe your investment in the activity. See Instructions. If you check column **(f)**, you must attach **Form 6198.**

27	(a) Name	(b) Enter P for partnership; S for S corporation	(c) Check if foreign partnership	(d) Employer identification number	Investment At Risk? (e) All is at risk	(f) Some is not at risk
A	Partnership #1	P		10-5566650	x	
B	Partnership #2	P		10-1672810	x	
C						
D						
E						

	Passive Income and Loss		Nonpassive Income and Loss		
	(g) Passive loss allowed (Attach Form 8582 if required)	(h) Passive income from Schedule K-1	(i) Nonpassive loss from Schedule K-1	(j) Section 179 expense deduction from Form 4562	(k) Nonpassive income from Schedule K-1
A	(2,600)	4,000			
B	PTP (3,645)				
C					
D					
E					
28a Totals		4,000			
b Totals	(6,245)				

29	Add amounts in columns (h) and (k) of line 28a. Enter the total income here	29	4,000
30	Add amounts in columns (g), (i), and (j) of line 28b. Enter the total here	30	(6,245)
31	Total partnership and S corporation income or (loss). Combine amounts on lines 29 and 30. Enter the result here and include in the total on line 40 below	31	(2,245)

Part III Income or Loss From Estates and Trusts

32	(a) Name	(b) Employer identification number
A		
B		
C		

	Passive Income and Loss		Nonpassive Income and Loss	
	(c) Passive deduction or loss allowed (Attach Form 8582 if required)	(d) Passive income from Schedule K-1	(e) Deduction or loss from Schedule K-1	(f) Other income from Schedule K-1
A				
B				
C				
33a Totals				
b Totals				

34	Add amounts in columns (d) and (f) of line 33a. Enter the total income here	34	
35	Add amounts in columns (c) and (e) of line 33b. Enter the total here	35	( )
36	Total estate and trust income or (loss). Combine amounts on lines 34 and 35. Enter the result here and include in the total on line 40 below	36	

Part IV Income or Loss From Real Estate Mortgage Investment Conduits (REMICs)—Residual Holder

37	(a) Name	(b) Employer identification number	(c) Excess inclusion from Schedules Q, line 2c (see instructions)	(d) Taxable income (net loss) from Schedules Q, line 1b	(e) Income from Schedules Q, line 3b

38	Combine amounts in columns (d) and (e) only. Enter the result here and include in the total on line 40 below	38	

Part V Summary

39	Net farm rental income or (loss) from **Form 4835**. (Also complete line 41 below.)	39	
40	TOTAL income or (loss). Combine amounts on lines 26, 31, 36, 38, and 39. Enter the result here and on Form 1040, line 18 ▶	40	(10,499)
41	**Reconciliation of Farming and Fishing Income:** Enter your **gross** farming and fishing income reported in Parts II and III, and on line 39 (see instructions)	41	

Form **4797**

Department of the Treasury
Internal Revenue Service

Sales of Business Property

(Also, Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F)

▶ Attach to your tax return. ▶ See separate Instructions.

OMB No. 1545-0184

1990

Attachment Sequence No. **27**

Name(s) shown on return: Chuck Eric & Liz Woods

Identifying number: 123-00-4567

Part I Sales or Exchanges of Property Used in a Trade or Business and Involuntary Conversions From Other Than Casualty and Theft—Property Held More Than 1 Year

* Enter here the gross proceeds from the sale or exchange of real estate reported to you for 1990 on Form(s) 1099-S (or a substitute statement) that you will be including on line 2, 10, or 20 1

(a) Description of property	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)	(d) Gross sales price	(e) Depreciation allowed or allowable since acquisition	(f) Cost or other basis, plus improvements and expense of sale	(g) LOSS ((f) minus the sum of (d) and (e))	(h) GAIN ((d) plus (e) minus (f))
2 Activity A (from passive activity)			6,000		3,224		2,776

3 Gain, if any, from Form 4684, Section B, line 21		
4 Section 1231 gain from installment sales from Form 6252, line 22 or 30		
5 Gain, if any, from line 32, from other than casualty and theft		
6 Add lines 2 through 5 in columns (g) and (h)	( )	2,776
7 Combine columns (g) and (h) of line 6. Enter gain or (loss) here, and on the appropriate line as follows:		2,776

Partnerships.—Enter the gain or (loss) on Form 1065, Schedule K, line 6. Skip lines 8, 9, 11, and 12 below.

S corporations.—Report the gain or (loss) following the instructions for Form 1120S, Schedule K, lines 5 and 6. Skip lines 8, 9, 11, and 12 below, unless line 7 is a gain and the S corporation is subject to the capital gains tax.

All others.—If line 7 is zero or a loss, enter the amount on line 11 below and skip lines 8 and 9. If line 7 is a gain and you did not have any prior year section 1231 losses, or they were recaptured in an earlier year, enter the gain as a long-term capital gain on Schedule D and skip lines 8, 9, and 12 below.

8 Nonrecaptured net section 1231 losses from prior years (see Instructions)	
9 Subtract line 8 from line 7. If zero or less, enter -0-. Also enter on the appropriate line as follows (see instructions):	

S corporations.—Enter this amount (if greater than zero) on Form 1120S, Schedule D, line 7, and skip lines 11 and 12 below.

All others.—If line 9 is zero, enter the amount from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below, and enter the amount from line 9 as a long-term capital gain on Schedule D.

Part II Ordinary Gains and Losses

10 Ordinary gains and losses not included on lines 11 through 16 (include property held 1 year or less):

11 Loss, if any, from line 7		
12 Gain, if any, from line 7, or amount from line 8 if applicable		
13 Gain, if any, from line 31		
14 Net gain or (loss) from Form 4684, Section B, lines 13 and 20a		
15 Ordinary gain from installment sales from Form 6252, line 21 or 29		
16 Recapture of section 179 deduction for partners and S corporation shareholders from property dispositions by partnerships and S corporations (see instructions)		
17 Add lines 10 through 16 in columns (g) and (h)	( )	
18 Combine columns (g) and (h) of line 17. Enter gain or (loss) here, and on the appropriate line as follows:		

a For all except individual returns: Enter the gain or (loss) from line 18 on the return being filed.

b For individual returns:

(1) If the loss on line 11 includes a loss from Form 4684, Section B, Part II, column (b)(ii), enter that part of the loss here and on line 21 of Schedule A (Form 1040). Identify as from "Form 4797, line 18b(1)". See Instructions . . . . . .

(2) Redetermine the gain or (loss) on line 18, excluding the loss, if any, on line 18b(1). Enter here and on Form 1040, line 15 .

Form **8582**

Department of the Treasury
Internal Revenue Service

Passive Activity Loss Limitations

▶ See separate Instructions.
▶ Attach to Form 1040 or Form 1041.

OMB No. 1545-1008

1990

Attachment Sequence No. **88**

Name(s) shown on return: Chuck Eric & Liz Woods

Identifying number: 123-00-4567

Part I Computation of 1990 Passive Activity Loss

Caution: See the Instructions for Worksheets 1 and 2 on page 7 before completing Part I.

Rental Real Estate Activities With Active Participation (For the definition of active participation see Active Participation in a Rental Real Estate Activity in the Instructions.)

	Activities acquired before 10-23-86 (Pre-enactment):				
1a	Activities with net income (from Worksheet 1, Part 1, column (a))	1a	2,776		
1b	Activities with net loss (from Worksheet 1, Part 1, column (b))	1b	(15,000)		
1c	Combine lines 1a and 1b	1c	(12,224)		
	Activities acquired after 10-22-86 (Post-enactment):				
1d	Activities with net income (from Worksheet 1, Part 2, column (a))	1d	--		
1e	Activities with net loss (from Worksheet 1, Part 2, column (b))	1e	(11,600)		
1f	Combine lines 1d and 1e	1f	(11,600)		
1g	Net income or (loss). Combine lines 1c and 1f			1g	(23,824)
1h	Prior year unallowed losses (from Worksheet 1, Parts 1 and 2, column (c))			1h	(14,892)
1i	Combine lines 1g and 1h			1i	(38,716)

All Other Passive Activities

	Activities acquired before 10-23-86 (Pre-enactment):				
2a	Activities with net income (from Worksheet 2, Part 1, column (a))	2a			
2b	Activities with net loss (from Worksheet 2, Part 1, column (b))	2b			
2c	Combine lines 2a and 2b	2c			
	Activities acquired after 10-22-86 (Post-enactment):				
2d	Activities with net income (from Worksheet 2, Part 2, column (a))	2d	4,000		
2e	Activities with net loss (from Worksheet 2, Part 2, column (b))	2e	--		
2f	Combine lines 2d and 2e	2f	4,000		
2g	Net income or (loss). Combine lines 2c and 2f			2g	4,000
2h	Prior year unallowed losses (from Worksheet 2, Parts 1 and 2, column (c))			2h	(2,600)
2i	Combine lines 2g and 2h			2i	1,400
3	Combine lines 1i and 2i. If the result is net income or -0-, see the instructions for line 3. If this line and line 1c or line 1i are losses, go to line 4. Otherwise, enter -0- on lines 8 and 9 and go to line 10			3	(37,316)

Note: *Treat all numbers entered in Parts II and III as positive amounts. (See Instructions on page 8 for examples.)*

Part II Computation of the Special Allowance for Rental Real Estate With Active Participation

4	Enter the **smaller** of the loss on line 1i or the loss on line 3. If line 1i is -0- or net income, enter -0- and complete lines 5 through 9			4	37,316
5	Enter $150,000. If married filing separately, see the Instructions	5	150,000		
6	Enter modified adjusted gross income, but not less than -0- (see Instructions). **Note:** *If line 6 is equal to or greater than line 5, skip line 7, enter -0- on lines 8 and 9, and then go to line 10. Otherwise, go to line 7*	6	143,655		
7	Subtract line 6 from line 5	7	6,345		
8	Multiply line 7 by 50% (.5). **Do not** enter more than $25,000. If married filing separately, see Instructions			8	3,173
9	Enter the **smaller** of line 4 or line 8			9	3,173

Part III Computation of Passive Activity Loss Allowed

10	Combine lines 1c and 2c. If the result is net income or -0-, skip to line 16. (See Instructions.)	10	12,224
11	If line 1c shows income, has no entry, or shows -0-, enter -0-. Otherwise, enter the **smaller** of line 1c or line 8	11	3,173
12	Subtract line 11 from line 10. If line 11 is equal to or greater than line 10, enter -0-	12	9,051
13	Subtract line 9 from line 3	13	34,143
14	Enter the **smaller** of line 12 or line 13	14	9,051
15	Multiply line 14 by 10% (.1) and enter the result	15	905
16	Enter the amount from line 9	16	3,173
17	**Passive activity loss allowed for 1990.** Add lines 15 and 16	17	4,078
18	Add the income, if any, on lines 1a, 1d, 2a, and 2d and enter the total	18	6,776
19	**Total losses allowed from all passive activities for 1990.** Add lines 17 and 18. See the Instructions to find out how to report the losses on your tax return.	19	10,854

Caution: *The worksheets are not required to be filed with your tax return and may be detached before filing Form 8582. Keep a copy of the worksheets for your records.*

Worksheet 1—For Form 8582, Lines 1a, 1b, 1d, 1e, and 1h (See Instructions on page 7.)

Part 1—Pre-enactment Interests	Current year		Prior year	Overall gain or loss	
Name of activity	(a) Net income (line 1a)	(b) Net loss (line 1b)	(c) Unallowed loss (line 1h)	(d) Gain	(e) Loss
Activity A	2,776	(15,000)	(6,667)		(18,891)
Total. Enter on Form 8582, lines 1a and 1b ▶	2,776	(15,000)			
Part 2—Post-enactment Interests					
Name of activity	(a) Net income (line 1d)	(b) Net loss (line 1e)		(d) Gain	(e) Loss
Activity B		(11,600)	(8,225)		(19,825)
Total. Enter on Form 8582, lines 1d, 1e, and 1h ▶		(11,600)	(14,892)		

Worksheet 2—For Form 8582, Lines 2a, 2b, 2d, 2e, and 2h (See Instructions on page 7.)

Part 1—Pre-enactment Interests	Current year		Prior year	Overall gain or loss	
Name of activity	(a) Net income (line 2a)	(b) Net loss (line 2b)	(c) Unallowed loss (line 2h)	(d) Gain	(e) Loss
Total. Enter on Form 8582, lines 2a and 2b ▶					
Part 2—Post-enactment Interests					
Name of activity	(a) Net income (line 2d)	(b) Net loss (line 2e)		(d) Gain	(e) Loss
Partnership #1	4,000		(2,600)	1,400	
Total. Enter on Form 8582, lines 2d, 2e, and 2h ▶	4,000		(2,600)		

Worksheet 3—Use this worksheet if an amount is shown on Form 8582, line 9 (See Instructions on page 8.)

Name of activity	Form or schedule to be reported on	(a) Loss (See instructions.)	(b) Ratio (See instructions.)	(c) Special allowance (See instructions.)	(d) Subtract column (c) from column (a) (See instructions.)
Activity A	Schedule E	18,891	.48794	1,548	17,343
Activity B	Schedule E	19,825	.51206	1,625	18,200
Total		38,716	1.00	3,173	35,543

Worksheet 4—Allocation of Unallowed Losses (See instructions on page 8.)

Name of activity	Forms or schedules to be reported on	(a) Loss (See instructions.)	(b) Ratio (See instructions.)	(c) Unallowed loss (See instructions.)
Activity A	E	17,343	.48794	16,218
Activity B	E	18,200	.51206	17,020
Total ▶		35,543	1.00	33,238

Worksheet 5—Allowed Losses (See instructions on page 8.)

Name of activity	Forms or schedules to be reported on	(a) Loss (See instructions.)	(b) Unallowed loss (See instructions.)	(c) Allowed loss (See instructions.)
Activity A	E	21,667	16,218	5,449
Activity B	E	19,825	17,020	2,805
Total ▶		41,492	33,238	8,254

Worksheet 6—Activities With Losses Reported on 2 or More Different Forms or Schedules (See instructions on page 9.)

Name of Activity:	(a) (See instr.)	(b) (See instr.)	(c) Ratio (See instr.)	(d) Unallowed loss (See instr.)	(e) Allowed loss (See instr.)
Form or Schedule to be Reported on:					
1a Net loss plus prior year unallowed loss from form or schedule. ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If -0- or less, enter -0- ▶					
Form or Schedule to be Reported on:					
1a Net loss plus prior year unallowed loss from form or schedule. ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If -0- or less, enter -0- ▶					
Form or Schedule to be Reported on:					
1a Net loss plus prior year unallowed loss from form or schedule. ▶					
b Net income from form or schedule ▶					
c Subtract line 1b from line 1a. If -0- or less, enter -0- ▶					
Total ▶			1.00		

At-Risk Limits

The at-risk rules limit your losses from most activities to your loss or amount at risk, whichever is less. The at-risk rules ***must be applied*** before the passive activity rules discussed in the first part of this publication.

Amount at risk. You are at risk in any activity for:

1) The money and adjusted basis of property you contribute to the activity, and
2) Amounts you borrow for use in the activity if:
   a) You are personally liable for repayment, or
   b) You pledge property (other than property used in the activity) as security for the loan.

"Amount at risk" is discussed under *At-Risk Amounts*, later.

Taxpayers affected. The at-risk limits apply to individuals and to certain closely held C corporations.

Closely held corporation. For the at-risk rules, a C corporation is a closely held corporation if, at any time during the last half of the tax year, more than 50% in value of its outstanding stock is owned, directly or indirectly, by or for five or fewer individuals.

To figure if more than 50% in value of the stock is owned by five or fewer individuals, apply the following rules:

1) Stock owned directly or indirectly by or for a corporation, partnership, estate, or trust is considered owned proportionately by its shareholders, partners, or beneficiaries.
2) An individual is considered to own the stock owned directly or indirectly by or for his or her family. Family includes only brothers and sisters (including half-brothers and half-sisters), a spouse, ancestors, and lineal descendants.
3) If a person holds an option to buy stock, he or she is considered to be the owner of that stock.
4) When applying rules (1) or (2), stock considered owned by a person under rule (1) or (3) is treated as actually owned by that person. Stock considered owned by an individual under rule (2) is not treated as owned by the individual for again applying rule (2) to consider another the owner of that stock.
5) Stock that may be considered owned by an individual under either rule (2) or (3) is considered owned by the individual under rule (3).

Loss defined. A loss is the excess of allowable deductions from the activity for the year (including depreciation or amortization allowed or allowable, disregarding the at-risk limits) over income received or accrued from that activity during the year. Income does not include income from the recapture of previous losses (discussed later under *Reductions of Amounts At Risk*) that is required because the amount at risk was less than zero.

Disallowed losses. Any loss from an activity that is not allowed in a tax year because of the at-risk limits is treated as a deduction for the activity in the next tax year.

Form 6198. Form 6198, *At-Risk Limitations*, is used to figure how much loss from an activity you can deduct. You must file Form 6198 with your tax return if:

1) You have a loss from any part of an activity that is covered by the at-risk rules, and
2) You are not at risk for some of your investment in the activity.

Activities Covered by the At-Risk Rules

If you are involved in one of the following activities, you are subject to the at-risk rules.

1) Farming.
2) Exploring for, or exploiting, oil and gas as a trade or business or for the production of income.
3) Holding, producing, or distributing motion picture films or video tapes.
4) Equipment leasing; that is, leasing section 1245 property, including personal property, and certain other tangible property which is depreciable or amortizable. See *Equipment leasing*, later.
5) Exploring for, or exploiting, geothermal deposits (for wells started after September 1978).
6) Holding real property placed in service after 1986. However, if you are a partner in a partnership, a shareholder in an S corporation, or have an interest in any other passthrough entity that you acquired after 1986, the at-risk rules apply no matter when the entity placed the real property in service.
7) Holding mineral property.
8) Any other activity not included in (1) through (7) that is carried on as a trade or business or for the production of income.

Transitional rule for leasing by closely held corporations. Leasing by a closely held corporation is not subject to the at-risk limits if the property was leased or ordered before November 1978 by either the lessor or lessee. However, this rule only applies to you if you held an interest in the property on October 31, 1978.

Exclusion for equipment leasing by a closely held corporation. If a closely held corporation is ***actively engaged*** in equipment leasing, the equipment leasing is treated as a separate activity not covered by the at-risk rules. A closely held corporation is actively engaged in equipment leasing if 50% or more of its gross receipts for the tax year are from equipment leasing.

Equipment leasing. Equipment leasing means the leasing, purchasing, servicing, and selling of equipment that is section 1245 property. Section 1245 property is any depreciable or amortizable property that is:

1) Personal property,
2) Other tangible property (other than a building or its structural components) that is:
   a) Used in manufacturing, production, or extraction, or in furnishing transportation, communications, energy, water, or sewage disposal,
   b) A research facility used for the activities in (a), or
   c) A bulk storage facility used for the activities in (a),
3) A single purpose agricultural or horticultural structure, or
4) A storage facility (other than a building or its structural components) used for the distribution of petroleum.

However, equipment leasing ***does not include*** leases of master sound recordings and similar contractual arrangements for tangible or intangible assets associated with literary, artistic, or musical properties, such as books, lithographs of art work, or musical tapes. Thus, a closely held corporation cannot exclude these leasing activities from the at-risk rules nor count them as equipment leasing for the gross receipts test.

The equipment leasing exclusion is not available for leasing activities related to other at-risk activities, such as motion picture films and video tapes, farming, oil and gas properties, and geothermal deposits. Thus, if a closely held corporation leases a video tape, it cannot exclude this leasing activity from the at-risk rules under the equipment leasing exclusion.

Controlled group of corporations. A controlled group of corporations is subject to special rules for the equipment leasing exclusion. See section 465(c) of the Internal Revenue Code.

Partners and partnerships. There are three separate limits on the amount of partnership losses that partners can deduct on the returns. These limits and the order in which they are applied are:

1) The basis of the partner's interest,
2) The at-risk rules, and
3) The passive loss rules.

See *Losses* and *Basis of Partner's Interest* in Publication 541, *Tax Information on Partnerships*, for more information.

Real property. Holding real property is treated as a separate activity to which the at-risk limits apply after 1986.

Personal property and services that are incidental to making real property available as living accommodations are included in the activity of holding real property. For example, making personal property available, such as furniture and services, when renting a hotel or motel room or a furnished apartment is considered incidental to making real property available as living accommodations.

Special exception for qualified C corporations. A qualified C corporation is not subject to the at-risk limits for any qualifying business carried on by the corporation. Each qualifying business is treated as a separate activity.

A ***qualified C corporation*** is a closely held corporation, defined earlier under *Passive Activity Limits*, that is not:

1) A personal holding company,
2) A foreign personal holding company, or
3) A personal service corporation (defined in section 269A(b) of the Internal Revenue Code, but determined by substituting 5% for 10%).

Qualifying business requirements. A ***qualifying business*** is any active business if all of the following apply:

1) During the entire 12-month period ending on the last day of the tax year, the corporation had at least:
   a) One full-time employee whose services were in the active management of the business, and
   b) Three full-time nonowner employees whose services were directly related to the business. A nonowner employee does not own more than 5% in value of the outstanding stock of the corporation at any time during the tax year. (The rules for constructive ownership of stock apply. However, in applying these rules, an owner of 5% or more, rather than 50% or more, of the value of a corporation's stock is considered to own a proportionate share of the corporation's stock.),
2) Deductions due to the business that are allowable to the corporation as business expenses and as contributions to certain employee benefit plans for the tax year exceed 15% of the gross income from the business, and

3) The business is not an ***excluded business***. An excluded business generally is a business that involves leasing section 1245 equipment, discussed earlier under *Equipment leasing*, and any business involving the use, exploitation, sale, lease, or other disposition of master sound recordings, motion picture films, video tapes, or tangible or intangible assets associated with literary, artistic, musical, or similar properties.

Separation of Activities

Each film or video tape, item of leased section 1245 equipment, farm, oil and gas property, or geothermal property is generally treated as a ***separate activity***.

Leasing by a partnership or S corporation. For a partnership or S corporation, all leasing of section 1245 property that is placed in service in any tax year of the partnership or S corporation is treated as one activity.

Aggregation of Activities

Activities which are a trade or business or are for the production of income are treated as one activity if:

1) The taxpayer ***actively participates*** in the management of the trade or business, or
2) The trade or business is carried on by a partnership or S corporation and 65% or more of its losses for the tax year is allocable to persons who actively participate in the management of the trade or business.

Active participation depends on all the facts and circumstances. Factors that indicate active participation include making decisions involving the operation or management of the activity, performing services for the activity, and hiring and discharging employees. Factors that indicate a lack of active participation include lack of control in managing and operating the activity, having authority only to discharge the manager of the activity, and having a manager of the activity who is an independent contractor rather than an employee.

Future regulations may provide additional rules for separating or aggregating activities.

Partners and S corporation shareholders. Partners or shareholders may aggregate certain activities their partnership or S corporation engages in. These activities are:

1) Films and video tapes,
2) Farms,
3) Oil and gas properties, and
4) Geothermal properties.

For example, to apply the at-risk rules for 1990, partners and S corporation shareholders can treat all of the partnership's or S corporation's films and video tapes as one activity.

At-Risk Amounts

You are considered at risk in an activity to the extent of your ***cash*** and the adjusted basis of ***other property*** you contribute to the activity. Your at-risk amount also includes your share of partnership net income that you do not withdraw and certain ***amounts borrowed*** for use in that activity. However, if the borrowed amounts are from nonrecourse financing or loss limiting arrangements, see *Amounts Not At Risk*, later.

Borrowed amounts. You are at risk for amounts borrowed to use in the activity if you are personally liable for repayment. You are also at risk if the amounts borrowed are secured by property other than property used in the activity. In this case, the amount considered at risk is the net fair market value of your interest in the pledged property. The net fair market value of property is its fair market value (determined on the date the property is pledged) less any prior (or superior) claims to which it is subject. However, no property will be taken into account as security if the property you pledge is directly or indirectly financed by debt that is secured by property you contributed to the activity.

If you borrow money to finance a contribution to an activity, you cannot increase your amount at risk by the contribution and the amount borrowed to finance the contribution. You may only increase your at-risk amount once.

If a corporation borrows from its shareholder, the corporation will be considered at risk for that amount.

Even though you are personally liable for the repayment of a borrowed amount or you secure a borrowed amount with property other than property used in the activity, you **are not** considered at risk if you borrowed the money from a person having an interest in the activity (other than as a creditor) or from someone related to such a lender.

You are not considered at risk for your share of any ***nonrecourse*** loan used to finance the activity or to acquire property used in the activity unless the loan is secured by property not used in the activity. If you borrow money to contribute to the activity and the lender's recourse is only to your interest in the activity or to the property used in the activity, the loan is nonrecourse and does not increase your amount at risk.

Related persons. Related persons include:

1) Members of the family, but only brothers and sisters (both whole- and half-blood), spouse, ancestors (parents, grandparents, etc.), and lineal descendants (children, grandchildren, etc.),
2) Two corporations that are members of the same controlled group of corporations determined by applying a 10% ownership test, instead of 50%,
3) The fiduciaries of two different trusts, or the fiduciary and beneficiary of two different trusts, if the same person is the grantor of both trusts,
4) Certain educational or charitable organizations and a person who directly or indirectly controls one of these organizations,
5) A corporation and an individual who owns, directly or indirectly, more than 10% of the value of the outstanding stock of the corporation,
6) A trust fiduciary and a corporation of which more than 10% in value of the outstanding stock is owned directly or indirectly by or for the trust or by or for the grantor of the trust,
7) The grantor and fiduciary, or the fiduciary and beneficiary, of any trust,
8) A corporation and a partnership if the same persons own over 10% in value of the outstanding stock of the corporation and more than 10% of the capital interest or the profits interest in the partnership,
9) Two S corporations if the same persons own more than 10% in value of the outstanding stock of each corporation,
10) An S corporation and a regular corporation if the same persons own more than 10% in value of the outstanding stock of each corporation,
11) A partnership and a person who owns directly or indirectly more than 10% of the capital or profits of the partnership,
12) Two partnerships, if the same persons directly or indirectly own more than 10% of the capital or profits of each, and
13) Two persons who are engaged in business under common control.

To determine the direct or indirect ownership of the outstanding stock of a corporation, apply the following rules.

1) Stock owned directly or indirectly by or for a corporation, partnership, estate, or trust is considered owned proportionately by or for its shareholders, partners, or beneficiaries.
2) Stock owned directly or indirectly by or for an individual's family is considered owned by the individual. The family of an individual includes only brothers and sisters (both whole- and half-blood), a spouse, ancestors, and lineal descendants.
3) Any stock in a corporation owned by an individual (other than by applying rule (2)) is considered owned directly or indirectly by the individual's partner.
4) When applying rules (1), (2), or (3), stock considered owned by a person under rule (1) is treated as actually owned by that person. However, when applying rules (2) or (3), stock considered owned by an individual under those rules is not again treated as owned by that individual to consider another the owner of that stock.

Effect of governmental price support programs. To apply the at-risk rules to farming operations, a governmental target price program (such as provided by the Agriculture and Consumer Protection Act of 1973) or other governmental price support programs for a product that you grow does not, without agreements limiting your costs, reduce the amount you have at risk.

Effect of increasing amounts at risk in subsequent years. To apply the at-risk limits, any loss which is allowable in a particular year reduces your at-risk investment (but not below zero) as of the beginning of the next tax year and in all succeeding tax years for that activity. Thus, if you have a loss that is more than your at-risk amount, the loss disallowed will not be allowed in later years unless you increase your at-risk amount. Losses which are suspended because they are greater than your investment that is at risk are treated as a deduction for the activity in the following year. Consequently, if your amount at risk increases in later years, you may deduct previously suspended losses to the extent that the increases in your amount at risk exceed your losses in later years.

Amounts Not At Risk

You are not considered at risk for amounts protected against loss through nonrecourse financing, guarantees, stop loss agreements, or other similar arrangements.

Nonrecourse financing. You generally are not considered at risk for amounts protected against loss through nonrecourse financing. Nonrecourse financing is financing for which you are not personally liable. However, this does not apply to ***qualified nonrecourse financing*** secured by real property used in the holding of real property.

Qualified nonrecourse financing is financing for which no one is personally liable for repayment and is:

1) Borrowed by you in connection with the activity of holding real property,
2) Secured by real property used in the activity,
3) Not convertible from a debt obligation to an ownership interest, and

4) Loaned or guaranteed by any federal, state, or local government, or borrowed by you from a qualified person.

A ***qualified person*** actively and regularly engages in the business of lending money. The most common example is a bank.
A qualified person ***is not:***

1) A person related to you. However, a person related to you may be a qualified person if the nonrecourse financing is commercially reasonable, and on the same terms as loans involving unrelated persons.
2) A person from which the taxpayer acquired the property, or a person related to such a person.
3) A person who receives a fee due to your investment in the real property, or a person related to that person.

Other loss limiting arrangements. Your capital, including any equity capital you have contributed, is not at risk in the activity if you are protected against economic loss by an agreement or arrangement for compensation or reimbursement. For example, you are not at risk if you will be reimbursed for part or all of any loss because of a binding agreement between yourself and another person.

Example 1. In livestock feeding operations, some commercial feedlots offer to reimburse investors against any loss sustained on sales of the fed livestock above a stated dollar amount per head. Under such "stop loss" orders, the investor is at risk only for the portion of the investor's capital for which the investor is not entitled to a reimbursement.

Example 2. You are personally liable on a mortgage but you separately obtain insurance to compensate you for any payments you must actually make because of your personal liability. You are considered at risk only to the extent of the uninsured portion of the personal liability to which you are exposed. You can include in the amount you have at risk the amount of any premium which you paid from your personal assets for the insurance. However, if you obtain casualty insurance or insurance protecting yourself against tort liability, it does not affect the amount you are otherwise considered to have at risk.

Reductions of Amounts At Risk

It is possible for you to place an amount at risk in an activity, deduct losses from the activity until the at-risk amount is reduced to zero, and then, in a later tax year, withdraw the amounts initially placed in the activity. This withdrawal (which could be by direct distributions to you, by converting a recourse debt to a nonrecourse debt, or by initiating a stop loss agreement) would reduce your at-risk amount to less than zero.

General rule. If the amount you have at risk in any activity at the end of any tax year beginning after 1978 is less than zero, you must add (recapture) that negative at-risk amount (but not more than the ***recapture limit,*** discussed next) to your gross income for that tax year as income from that at-risk activity. The amount you include in your gross income is treated as a deduction allocable to that at-risk activity in the next tax year.

Recapture limit. The amount that you include in your gross income cannot be more than the total amount of losses deducted in prior tax years beginning after 1978 for that at-risk activity, reduced by any amounts you previously included in gross income for that activity under this recapture rule.

Transitional rule for recapture of losses. If the amount for which you were at risk in an activity at the end of your last tax year that began before 1979 was less than zero, you apply the preceding rule for the recapture of losses by using the actual negative amount instead of zero. You would then be subject to recapture of allowed loss deductions only to the extent that your at-risk amount drops below your initial negative amount (rather than zero). For example, if your at-risk amount for your tax year ending December 31, 1978, was minus $50, you would recapture losses for 1979 and later years only to the extent that your at-risk amount went below minus $50.

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553 ..... Highlights of 1990 Tax Changes
595 ..... Tax Guide for Commercial Fishermen
910 ..... Guide to Free Tax Services

Employer's Guides

15 ..... Employer's Tax Guide (Circular E)
51 ..... Agricultural Employer's Tax Guide (Circular A)
80 ..... Federal Tax Guide for Employers in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (Circular SS)

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556S ..... Revisión de las Declaraciones de Impuesto, Derecho de Apelación y Reclamaciones de Reembolsos
579S ..... Cómo Preparar la Declaración de Impuesto Federal
586S ..... Proceso de Cobro (Deudas del Impuesto Sobre Ingreso)
594S ..... Proceso de Cobro (Deudas del Impuesto por Razón del Empleo)
850 ..... English-Spanish Glossary of Words and Phrases Used in Publications Issued by the Internal Revenue Service

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Instructions for 1040 & Schedules	Instructions for 1040EZ	Schedule SE (1040)	3468 & Instructions	8822	Pub. 521	Pub. 590	
1040A	Schedules A&B (1040)	1040-ES (1991)	3903 & Instructions	Pub. 1	Pub. 523	Pub. 910	
Instructions for 1040A, Sch. 1&2	Schedule C (1040)	1040X & Instructions	4562 & Instructions	Pub. 17	Pub. 525	Pub. 917	
Schedule 1 (1040A)	Schedule D (1040)	2106 & Instructions	4868	Pub. 334	Pub. 527	Pub. 929	
Schedule 2 (1040A)	Schedule E (1040)	2119 & Instructions	8283 & Instructions	Pub. 463	Pub. 529		
Schedule 3 (1040A) & Instructions	Schedule F (1040)	2210 & Instructions	8332	Pub. 505	Pub. 545		

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